

**Comments on Federal Health IT Strategic Plan (2015-2020)**

**Submitted by the National Center on Domestic Violence, Trauma  
& Mental Health (NCDVTMH)**

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We are grateful for this opportunity to submit comments on the Federal Health IT Strategic Plan (2015-2020), prepared by the Office of the National Coordinator for Health Information Technology (ONC). We share in the excitement for the possibility of improving health care outcomes for individuals through adoption of health information technology (HIT), while also maintaining protections for sensitive patient information.

We applaud the Strategic Plan's recognition that behavioral health care is an important aspect of the continuum of care. For example, Goal 1 of the Federal Health IT Strategic Plan is to expand the adoption of health HIT, including through "emphasizing assistance for health care providers serving long-term and post-acute care, behavioral health, community-based, and other populations ineligible to participate in the Medicare and Medicaid EHR Incentives Programs."

The adoption of EHR technology by behavioral providers presents three significant opportunities:

1. the opportunity to use EHR technology to promote appropriate response to DV in behavioral health settings;
2. the opportunity to develop robust informed consent mechanisms in the context of behavioral health records; and
3. the opportunity to develop the technological capacity for granularity so as to support patient choice with regard to sharing of information.

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<sup>1</sup> These comments are not submitted on behalf of and do not necessarily reflect the opinions of Family Violence Prevention & Services Program (FVPSP); Administration on Children, Youth and Families; and/or the Department of Health & Human Services.

We also applaud the Federal Health IT Strategic Plan's focus on individual choice and privacy, including, for example, the second Federal Health IT Principle, "Respect individual preferences: Person-centered care embraces the value of the individual inside and outside the health system, where all entities' honor individuals' privacy, needs, values, and choices regarding their information, health and care."

Survivors of DV have specific choice and privacy needs with regard to health and behavioral health records, which we describe below. Ultimately, we believe that the development of regulatory and technological solutions for ensuring the protection of sensitive health and behavioral health information is critical to patient safety and well-being, including the safety and well-being of survivors of domestic violence (DV). Regulatory and technological infrastructure is necessary to support a robust informed consent process with regard to sensitive records and information, and this process should incorporate questions with regard to DV-related safety concerns.

We submit that the Federal Health IT Strategic Plan is an appropriate and ideal place for the Federal Government to strongly express its commitment to regulatory and technological mechanisms for optimizing individual patient choice and privacy options, and we hope that by providing information about the risks specific to DV survivors, in addition to the risks faced by other constituencies, we will help to inform this process.

Therefore, we would like to highlight four major issues related to privacy of records that are specific to DV survivors, with regard to both health and behavioral health records:

- 1. Protection of Identifying Information:** For survivors of DV who are living in hiding from extremely dangerous ex-partners, it is critical that their address as well as other identifying information for them and their children be kept confidential.
- 2. Protection of DV Disclosure Data:** We know that DV survivors often disclose abuse to health and behavioral health care providers. When abusers discover that their partners have disclosed abuse, they may retaliate through violence. Therefore, it must be possible for these disclosures to be kept confidential and shared on a strictly need-to-know basis. Abusive partners may gain direct access to records, either personally or through allied friends or family members who work in health care or related fields. Confidentiality risks are likely to be higher in smaller communities/rural areas and when records are disclosed to new members of health care entities, but may also be high within larger health networks. The more readily accessible DV disclosure data is, the more

easily abusers checking up on their partners will be able to obtain access. Additionally, providers other than those to whom the survivor discloses may not understand the interrelated safety and confidentiality needs of survivors, nor may they be prepared to take the precautions necessary to ensure the safety of survivors. Finally, when survivors are accessing behavioral health services, they may disclosure particularly sensitive information and details about their experiences of violence. For people who have experienced interpersonal trauma where choice and control have been taken away, choosing who and when to disclose personal information to is critical. Unfortunately, other providers may be insensitive to the experience of trauma survivors, and may respond in ways that are inappropriate and potentially retraumatizing.

- 3. Protection of Survivors' Behavioral Health Records:** Survivors of DV often experience the traumatic effects of abuse, as well as coercive efforts by abusers to intentionally undermine their sanity and sobriety. Furthermore, survivors may use substances to cope with the impact of previous trauma or to emotionally survive ongoing abuse. Abusive partners may force survivors to take overdoses of psychiatric medications, coerce their partners to use drugs or alcohol, interfere with treatment and/or sabotage recovery efforts, or use intoxication to justify emotional or sexual abuse. After deliberately inducing debility in their partners, many abusers then use these issues to impugn survivors' credibility with family and friends, as well as health care providers, jeopardize access to potential sources of support and assistance (e.g., by telling survivors they will be arrested for drug-related crimes if they call the police), and raise these issues in custody cases.<sup>2</sup> Because of the ways that abusers may use mental health and substance use disorder information against their partners, mechanisms that make it possible to protect this sensitive data, while important for all patients, are even more critical for survivors. As described above, abusive partners may gain access directly or through allied family members or friends. Records shared among many providers may also be easier to subpoena in court. In the hands of abusive partners, these records can be used to undermine survivor's credibility and sabotage their attempts to access resources, seek police assistance, obtain orders of protection, and retain custody of their children. Furthermore, providers who do not understand the role of abuse and violence in the development and exacerbation of mental health

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<sup>2</sup> Warshaw, Lyon, Bland, Phillips & Hooper, Mental Health and Substance Use Coercion Survey: Report on Findings from the National Center on Domestic Violence, Trauma & Mental Health and the National Domestic Violence Hotline. NCDVTMH 2014.

and substance use conditions may inadvertently document in ways that are victim blaming and undermine the credibility of survivors. These records can ultimately be used to undermine survivors in court cases as well. Thus, both regulatory and technological protections for behavioral health records are critical.

- 4. Opportunity to Promote DV Screening and Brief Counseling:** When considering the social and economic factors that support health and well-being, the role of past trauma and ongoing violence cannot be understated. The effects of DV on health and mental health are widely documented. Yet, screening alone is not enough. Providers also need to be able to respond appropriately to disclosures of previous trauma and ongoing domestic violence. HIT presents an opportunity to create mechanisms to support screening and appropriate responses to DV in health and behavioral health settings. Electronic Health Records, in particular, present an opportunity to incorporate questions, alerts, and resources, which can be effective in addressing DV when staff are trained to respond and the appropriate response procedures are in place.

Thank you for this opportunity to provide comments. As the Federal Health IT Strategic Plan is developed and implemented, we are hopeful that the ONC and the Federal Government will encourage vendors, providers, and other stakeholders to meet these opportunities, in order to ultimately ensure the safety survivors and reduce the impact of DV on health and behavioral health.

Please do not hesitate to contact us if we can be of additional assistance.

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